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OFFICE OF THE ATTORNEY GENERAL



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ATTORNEY GENERAL
STATE OF ALABAMA

14 1982

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Honorable James A. Patton
District Attorney
Thirty First Judicial Circuit
Colbert County
P.O. Box 87
Tuscumbia, AL 35674

Counties -- Contracts -- Funds

Counties and municipalities
may contract with Safeplace,
Inc. to provide services for
abused and neglected spouses
and children.

Dear Mr. Patton:

This office has received your opinion request asking whether Franklin, Colbert and Lauderdale Counties and the municipalities in those counties can legally make appropriations to or contract with Safeplace, Inc. Your request presents the following information regarding Safeplace, Inc.

Safeplace Inc., is a private non-profit corporation formed to meet the need of individuals who fall outside the programs and capabilities of any one existing agencies in Colbert, Franklin and Lauderdale Counties.

Safeplace Inc., is governed by a Board of Directors. This Board will be responsible for a program involving representatives of concerned agencies

Honorable James A. Patton
Page Two

in the community (i.e. Department of Pensions and Securities, Department of Social Work, University of North Alabama, Cooperative Campus Ministry, local churches, and the judiciary) and various private agencies and individuals. It will seek to coordinate the resources, programs, interest and concerns of any such group in the area of Domestic Violence and Abuse cases in addition to providing shelter to those people finding themselves in such a situation.

It is intended that the program will include such aspects as: (1) Shelter, initially the specific focus of the program is to provide emergency shelter care for adults and children; (2) Supportive Care, establish a means for emergency emotional and care support to those in an abuse situation; (3) Community Education, to inform citizens, agencies and area professionals about the program; (4) Professional Education, to work with those administering direct health care in recognizing abuse cases and directing those involved to cure and assistance rather than just treating the symptoms of such action.

Safeplace Inc., has been in operation for approximately a year, it has been very effective in providing shelter and care for abused spouses and children, providing both physical and mental aid. The Alabama legislature recognizing the services of Safeplace approved limited funding for fiscal year 1983.

In an Opinion to Honorable J. Knox Argo, Montgomery County Commission, under date of September 1, 1982, this office considered an appropriation to a very similar group and held that the County Commission could not make a direct appropriation to the Montgomery Area Family Violence

Honorable James A. Patton
Page Three

Program, Inc. However, this office did hold that the County Commission and the City of Montgomery could jointly contract with the Montgomery Area Family Violence Program, Inc. A copy of the Argo opinion is enclosed for your additional information concerning the terms of such a contract. It must be noted that the county and municipality must receive adequate consideration for the expenses paid pursuant to the contract.

Therefore, it is the opinion of this office that Franklin, Colbert and Lauderdale Counties and the municipalities located therein may contract with Safeplace, Inc. for the provisions of services to citizens as noted in the above-quoted portion of your opinion request.

I do hope that this response satisfactorily answers your inquiry. If, however, we may be of further service, please do not hesitate to contact us.

Sincerely yours,

CHARLES A. GRADDICK
Attorney General

By--



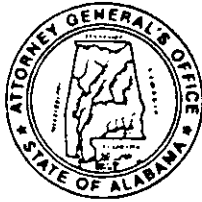
CAROL JEAN SMITH
Assistant Attorney General

CJS:es

Enclosure

82-00535

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SEP 1 1982

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Honorable J. Knox Argo
Montgomery County Commission
300 South Hull Street
Montgomery, Alabama 36104

Counties - Funds - Family
Violence Program

Montgomery County Commission
may contract with Montgomery
Area Family Violence Program
to provide services to abused
and neglected spouses and
children of the county.

Dear Mr. Argo:

Reference is made to the request by the Montgomery
County Commission for an opinion from the Attorney General
regarding appropriations by that body to the Montgomery
Area Family Violence Program.

In the attachments to the request for an opinion it
is indicated that the Montgomery Area Family Violence
Program is a non-profit corporation established for the
purpose of preventing, discovering and treating abuse and
neglect in domestic situations. It consists of a Domestic
Abuse Shelter and The Sunshine Center which provides
professional counseling for abused and neglected children.

As your first question you asked:

Honorable J. Knox Argo
Montgomery County Commission
Page Two

1. May the Montgomery County Commission make a direct appropriation to the Montgomery Area Family Violence Program, Inc.?

This question is to be answered in the negative.

Section 94 of the Constitution of Alabama, 1901 as amended by Amendment No. 112 prohibits a county from granting public money or a thing of value in aid of a private individual, association or corporation. Therefore, the Attorney General is of the opinion that the Montgomery County Commission is prohibited by Amendment No. 112 from making a direct appropriation to the Montgomery Area Family Violence Program.

You presented as your second question:

2. If the answer to question No. 1 is no, may the Montgomery County Commission contract with the Montgomery Area Family Violence Program, Inc. for it to render to the County certain governmental functions. If so, please state those services offered by the Montgomery Area Family Violence Program, Inc. which would be legally appropriate to be performed under contract with the Montgomery County Commission.

The question is to be answered in the affirmative.

This office has concluded in numerous opinions that county and municipal governments can contract with a private organization to perform some governmental function or duty of the county or municipality. Code of Alabama 1975, Section 38-2-9 provides that a county has authority to make provisions for the poor and needy of the county. Also the establishment of domestic violence shelters or facilities for abused children and spouses are provided for in Code of Alabama 1975, Section 30-6-1 through Section 30-6-13.

Honorable J. Knox Argo
Montgomery County Commission
Page Three

These facilities are under the auspices of the district attorney of the particular county and may receive county funding. Furthermore, the county has a duty to provide for the safety, health and welfare of its citizens through the police power delegated to it by the State. Therefore, considering the above powers of the county regarding the care of its citizens, the Attorney General concludes that the Montgomery County Commission may contract with the Montgomery Area Family Violence Program to render services to the abused and neglected children and spouses of the county. These services would include temporary housing for victims of spouse and child abuse or neglect, shelter, counseling, preventive programs, detection of spouse and child abuse or neglect, cooperation with law enforcement and family court officials and other related functions pertaining to child and spouse abuse and neglect.

The third question you asked was as follows:

3. If there are any restrictions on the ability of the Montgomery County Commission to contract with the Montgomery Area Family Violence Program, Inc., please state such restrictions.

As it was concluded in those opinions of this office stating that counties and municipalities may contract with private organizations to perform governmental functions, the county or municipality contracting must receive adequate consideration for the expenses it pays pursuant to the contract. Therefore, the Montgomery Area Family Violence Program must provide adequate services in quality and quantity to the citizens of the county in order to provide sufficient consideration for the funds it receives from the county.

Your final question was posed as follows:

4. Since it is proposed that the funding or contracting be done jointly with the City of Montgomery, please state if any portion of your answer to the above questions would be different for the City of Montgomery.

Honorable J. Knox Argo
Montgomery County Commission
Page Four

In that this office has encouraged cooperation between governmental agencies and has in the past authorized joint spending between county and municipal governments, the Attorney General concludes that the City of Montgomery and Montgomery County can jointly contract with the Montgomery Area Family Violence Program.

However, this opinion request is made by the Montgomery County Commission and the questions presented concern that body. Any questions regarding the City of Montgomery for consideration by the Attorney General must be presented by a resolution of the governing body of the City.

I trust that your questions have been sufficiently answered.

If our office can be of assistance in the future, please contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By-



LYNDA F. KNIGHT
Assistant Attorney General

CAG/LFK/ks